

9/10

Application No. 09/173,858

Atty Docket: CMRC 1004-1

REMARKS

Claims 1-16 and 61-72 are pending in this action. No amendments are made in this response, because the cited patent reference does not qualify as prior art.

Claims 1-16 were previously rejected under 35 USC 101 as being directed to non-statutory subject matter; these rejections have been withdrawn in view of the last amendment filed in this application.

Claims 1-16 and 61-72 were previously rejected under 35 USC 112, second paragraph, as being indefinite; these rejections have also been withdrawn in view of the last amendment filed in this application.

Claims 1-16 and 61-72 are presently rejected under 35 USC 103(a) as being unpatentable over Call (USP 6,418,441) in view of the W3C reference provided by way of IDS by the Applicants.

Rejections under 35 USC 103(a)

Applicants object to application of Call '441 because it does not qualify as prior art. (Applicants assume that reference to "Simpson" more than a dozen times in the Office Action should be understood as "Call", because no Simpson reference is identified in the Office Action or the attached PTO-892 form. We assume that Call was substituted for Simpson late in the Examiner's drafting.) On the face of Call '441, the priority data reads:

Division of application No. 091316,597, filed on May 21, 1999, now Pat. No. 6,154,738, which is a continuation-in-part of application No. 091049,426, filed on Mar. 27, 1998, now Pat. No. 5,913,210.

CIP status does not entitle Call to a priority date of March 27, 1998. To get that date, the Examiner must apply USP 5,913,210, not Call '441 that the Examiner has cited.

The columns of Call '441 that the Examiner relies upon explain Figures 4-8. The parent, from which Call '441 is a CIP, stops at Figure 2; it does not have any Figures 4-8.

Having removed Call '441 as a reference, all of the claims are allowable.

10/10

Applicati n No. 09/173,858

Atty Docket: CMRC 1004-1

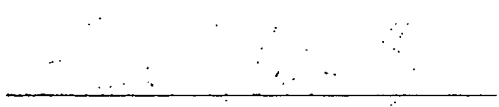
CONCLUSION

Applicants respectfully submit that the claims, as stated herein, are in condition for allowance and solicit acceptance of the claims, in light of these remarks. If the Examiner disagrees and sees amendments that might facilitate allowance of the claims, a call would be appreciated. In particular, applicants analyzed Call '441 before discovering the priority issue and are convinced that these claims would be allowable over Call '441 in any case.

Should any questions arise, the undersigned can ordinarily be reached at his office at 650-712-0340 from 8:30 to 5:30 PST, M-F and can be reached at his cell phone 415-902-6112 most other times.

Respectfully submitted,

Dated: 7 November 2003


Ernest J. Beffel, Jr., Reg. No. 43,489

HAYNES BEFFEL & WOLFELD LLP
P.O. Box 366
Half Moon Bay, CA 94019
(650) 712-0340 phone
(650) 712-0263 fax